

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

V.

RODRIGO ALVAREZ-OUINONEZ,

Defendant

NO. CR20-093 RSM

ORDER DENYING DEFENDANT'S MOTION TO SEVER

This matter comes before the Court on Defendant Rodrigo Alvarez-Quinonez’s (“Alvarez”) Motion to Sever (Dkt. 193). Although captioned as a motion to sever, Alvarez-Quinonez’s motion appears to be an effort to have the Court reconsider its previous order continuing the trial date in this multi-defendant case (Dkt. 179). The Court declines to do so and hereby DENIES the motion to sever (Dkt. 193).

I. BACKGROUND

The Court adopts the procedural background set forth in its Order Denying Defendant Alvarez-Ouinonez's Motion to Dismiss, which will not be repeated here.

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II. DISCUSSION

The Supreme Court has long held that “[t]here is a preference in the federal system for joint trials of defendants who are indicted together.” *Zafiro v. United States*, 506 U.S. 534, (1993). The Ninth Circuit has repeatedly emphasized the importance of this preference, holding that the rule governing joinder “embodies a substantial public interest in joint trials of criminal defendants charged with the same offense” and that “[j]oint trials are the rule rather than the exception.” *United States v. Brashier*, 548 F.2d 1315, 1324 (9th Cir. 1976), *see also United States v. Rogers*, 722 F.2d 557, 561 (9th Cir. 1983) (“joint trials are the rule rather than the exception”). This strong proclivity for joint trials is based in part on the recognition that trying co-defendants together conserves judicial resources, diminishes inconvenience and harm to witnesses and victims, and avoids delays in bringing those charged with crimes to trial. *See United States v. Lane*, 474 U.S. 438, 449 (1986). Joints trials also “serve the interests of justice by avoiding the scandal and inequity of inconsistent verdicts.” *Zafiro*, 506 U.S. at 537.

15 Accordingly, criminal defendants must satisfy an “exacting” standard before a
16 court will order severance. *See United States v. Jawara*, 474 F.3d 565, 579 (9th Cir.
17 2006). A defendant seeking severance bears the burden to demonstrate joinder will cause
18 her “clear, manifest or undue” prejudice of such magnitude that, without severance, her
19 right to a fair trial will be denied. *See United States v. Vasquez-Velasco*, 15 F.3d 833, 845
20 (9th Cir. 1994) (internal quotations and citations omitted); *United States v. Lewis*, 787
21 F.2d 1318, 1321 (9th Cir. 1986) (Under Rule 14, “[t]he defendant has the burden of
22 proving that the joint trial was manifestly prejudicial,” such that “defendant’s right to a
23 fair trial was abridged.”)).

Even if joinder threatened such undue prejudice, nothing in Rule 14 requires that severance be the remedy. Instead, “less dramatic measures, such as limiting instructions, often will suffice to cure any risk of prejudice” from joinder. *Zafiro*, 506 U.S. at 539 (holding that Rule 14 leaves the tailoring of appropriate relief to the sound discretion of the trial court). A trial court’s determination that joinder is appropriate will be given

1 deference absent a showing that “joinder was so manifestly prejudicial that it outweighed
 2 the dominant concern with judicial economy and compelled exercise of the court’s
 3 discretion to sever.” *United States v. Armstrong*, 621 F.2d 951, 954 (9th Cir. 1980).

4 Alvarez-Quinonez has not satisfied the stringent legal standard that must be met
 5 before his case could be severed from the remaining defendants. Instead, he simply
 6 asserts that his right to a speedy trial has been denied. But this issue has already been
 7 raised by Alvarez-Quinonez and addressed by this Court in its Order granting the motion
 8 to continue (Dkt. 179). Specifically, the Court found *inter alia* that the joint-investigation,
 9 ongoing conspiracy, and multi-defendant nature of the case all justified a continuance and
 10 outweighed Alvarez-Quinonez’s right to a speedy trial.

11 To the extent Alvarez-Quinonez is arguing his due process rights have been
 12 violated, the Court finds that argument is without merit. See Order Denying Defendant
 13 Alvarez-Quinonez’s Motion to Dismiss.

14 Finally, the Court further notes that Velasquez-Licona was appointed new counsel
 15 (Anna Tolin) on December 3, 2021, and that in response to Ms. Tolin’s request for a
 16 continuance, the Court has set a new trial date of May 16, 2022. However, the Court
 17 concludes, under the calculus set forth above, that there is still no basis to sever
 18 Alvarez’s case from that of Velasquez-Licona. This is particularly true given the
 19 significant factual overlap between the two defendants. In making this finding, the Court
 20 accepts the government’s representations that Alvarez and Velasquez-Licona were jointly
 21 engaged in a conspiracy to distribute narcotics, as charged in the indictment, and that
 22 intercepted calls reveal Alvarez’s involvement in directing Velasquez-Licona to
 23 distribute fentanyl.

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III. CONCLUSION

For the reasons set forth above, the Court DENIES Alvarez-Quinonez's Motion to Sever (Dkt. 193).

DATED this 11th day of January, 2022.

B. M. S.

RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE

Presented by:
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